

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THOMAS BURCH	§	
VS.	§	CIVIL ACTION NO. 5:08-CV-2
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Petitioner Thomas Burch, a prisoner confined at the Telford Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has filed a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the petition as moot.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Petitioner did not object to the Report and Recommendation. Petitioner acknowledges that the petition is moot, and he has moved to dismiss the petition voluntarily. After due consideration, the court is of the opinion that petitioner's motion should be granted and the petition should be dismissed pursuant to Federal Rule of Civil Procedure 41(a).

ORDER

Accordingly, petitioner's motion to dismiss the petition is **GRANTED**. The report of the magistrate judge is partially **ADOPTED** to the extent it recommends dismissing the petition. A final judgment will be entered dismissing the petition in accordance with this Memorandum Order.

SIGNED this 1st day of April, 2008.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE